

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

Christopher M. Irizarry

Plaintiff(s)

vs.

SERGEANT JASON T. YUNG
ET AL.)

Defendant(s)

INMATE

CIVIL

RIGHTS

COMPLAINT

PURSUANT TO

42 U.S.C. § 1983

TRIAL by JURY

Civil Case No.: 9:

U.S. DISTRICT COURT - N.D. OF N.Y.
FILED
AUG 24 2010
AT _____ O'CLOCK
Lawrence K. Baerman, Clerk - Syracuse

Plaintiff(s) in the above-captioned action, allege(s) as follows:

9:10-W-1022

JURISDICTION

1. This is a civil action seeking relief and/or damages to defend and protect the rights guaranteed by the Constitution of the United States. This action is brought pursuant to 42 U.S.C. § 1983. The Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1343(3) and (4) and 2201.

PARTIES

2.

Plaintiff:

Christopher Irizarry 99A0222

Address:

Po Box 200

Southport Correctional Facility

Pine city NY 14871

Additional Plaintiffs may be added on a separate sheet of paper.

3.

a.

Defendant:

SGT Jason T. YUNG

Official Position:

Sergeant

Address:

Coxsackie Correctional Facility

Po Box 200

Coxsackie NY 12051

ADDITIONAL DEFENDANTS

DEFENDANT ROBERT DAVIES III

OFFICIAL POSITION Corrections officer

Address COXSACKIE Corr. FAC.

PO Box 200

COXSACKIE NY 12051

DEFENDANT SGT. ROACH

OFFICIAL POSITION SERGEANT

Address COXSACKIE Corr. FAC.

PO Box 200

COXSACKIE NY 12051

DEFENDANT DIXON

OFFICIAL POSITION Corrections officer

Address COXSACKIE Corr. FAC.

PO Box 200

COXSACKIE NY 12051

DEFENDANT S. CORKNARD

OFFICIAL POSITION Corrections officer

Address COXSACKIE CORR. FAC

PO Box 200

COXSACKIE NY 12051

DEFENDANT FERNANDEZ

OFFICIAL POSITION Corrections officer

Address COXSACKIE Corr. FAC.

PO Box 200

COXSACKIE NY 12051

ADDITIONAL DEFENDANTS

DEFENDANT J. Southard

OFFICIAL POSITION Corrections Officer

Address Coxsackie Correctional Facility

PO Box 200

COXSACKIE, NY, 12051

DEFENDANT K. GIORGIANNI

OFFICIAL POSITION Registered NURSE

Address COXSACKIE CORR. FAC.

PO Box 200

COXSACKIE NY 12051

DEFENDANT J. PlienS

OFFICIAL POSITION REGISTERED NURSE

Address COXSACKIE CORR. FAC.

PO Box 200

COXSACKIE NY 12051

DEFENDANT _____

OFFICIAL POSITION _____

Address _____

Defendant _____

Official Position _____

Address _____

b. Defendant: Steven Grimaldi
Official Position: Corrections officer

Address: Coxsackie Corr. FAC.
Po Box 200
COXSACKIE NY 12051

c. Defendant: MARK HARRIS
Official Position: Corrections officer

Address: Coxsackie Correctional Facility
Po Box 200
Coxsackie NY 12051

Additional Defendants may be added on a separate sheet of paper.

4.

PLACE OF PRESENT CONFINEMENT

a. Is there a prisoner grievance procedure at this facility?
(☒) Yes () No

b. If your answer to 4(a) is YES, did you present the facts relating to your complaint in this grievance program?

() Yes (☒) No

If your answer to 4(b) is YES:

(i) What steps did you take?

(ii) What was the final result of your grievance?

IT WAS DENIED AT COXSACKIE
THE FACILITY WHERE INCIDENT HAPPENED

If your answer to 4(b) is NO:

Why did you choose to not present the facts relating to your complaint in the prison's grievance program?

- c. If there is no grievance procedure in your institution, did you complain to prison authorities about the facts alleged in your complaint?

() Yes () No

If your answer to 4(c) is YES:

- (i) What steps did you take?

- (ii) What was the final result regarding your complaint?

I APPEALED THE I.G.R.C. decision TO THE SUPERINTENDENT, WHO DENIED IT. THEN I APPEALED THE Supt.'s decision TO ALBANY & THEY DENIED IT.

If your answer to 4(c) is NO:

Why did you choose to not complain about the facts relating to your complaint in such prison?

"I EXHAUSTED MY ADMINISTRATIVE REMEDIES"

5.

PREVIOUS LAWSUITS

- a. Have you ever filed any other lawsuits in any state and federal court relating to your imprisonment?

() Yes (✓) No

- b. If your answer to 5(a) is YES you must describe any and all lawsuits, currently pending or closed, in the space provided on the next page.

For **EACH** such lawsuit, provide the following information:

i. Parties to previous lawsuit:

Plaintiffs:

Defendants:

ii. Court (if federal court, name District; if state court, name County:

iii. Docket number: _____

iv. Name of Judge to whom case was assigned:

v. Disposition (dismissed? on appeal? still pending?)

vi. Approximate date of filing prior lawsuit:

vii. Approximate date of disposition:

6.

FACTS

Set forth the facts of your case which substantiate your claim of violation of your civil and/or Constitutional rights. List the events in the order they happened, naming defendants involved, dates and places.

Note: You must include allegations of wrongful conduct as to EACH and EVERY defendant in your complaint. (You may use additional sheets as necessary.)

(FACTS)

1. ON July Twenty sixth 2009 ON OR AROUND 11:05 AM While ENROUTE TO THE MESS HALL I WAS CONFRONTED BY SERGEANT JASON T. YUNG.
2. SERGEANT JASON T. YUNG GAVE ME A DIRECT ORDER TO STEP OUT OF THE LINE, I IMMEDIATELY COMPLIED.
3. SERGEANT JASON T. YUNG ORDERED ME TO WALK THROUGH THE METAL DETECTOR AND SIT ON THE BOSS CHAIR, I COMPLIED
4. AFTER BEING PAT FRISKED SERGEANT JASON T. YUNG STARTED TO QUESTION ME ABOUT MY ATTITUDE WHICH HE CLAIMED WAS POOR.
5. SERGEANT YUNG BECAME IRATE AND THREATENED ME BY STATING "THIS IS MY JAIL AND I WILL HAVE MY OFFICERS FIX YOUR ATTITUDE"
6. SERGEANT YUNG ORDERED C-O VERGA TO ESCORT ME BACK TO A-3-38 CELL.

7. WHEN OFFICER VERGA ASKED SERGEANT YUNG IF I WAS KEEP LOCK HE REPLIED "YEAH" WHEN C.O VERGA ASKED HIM WHY WAS I BEING PLACED ON KEEP LOCK SGT YUNG REPLIED "I DONT KNOW BUT WE WILL FIGURE IT OUT"

8. C.O STEVEN GRIMALDI' APPROACHED SERGEANT YUNG AND ASKED HIM WAS I ON KEEP LOCK AND HE REPLIED "YEAH THAT ASS HOLE IS LOCKED UP AND MAKE SURE YOU TEACH HIM A LESSON"

9. SERGEANT YUNG TOLD C.O STEVEN GRIMALDI' SOMETHING IN HIS EAR AND HE LOOKED AT ME AND NODDED HIS HEAD. C.O VERGA ESCORTED ME BACK TO A-3-38 CELL.

10. AT APPROXIMATELY 11:41 AM A-3 DIVISION RETURNED FROM THE MESS HALL.

(A-3-38)

11. I LOOKED DOWN THE COMPANY AND NOTICED SGT YUNG TALKING TO C.O GRIMALDI', DAVIES AND HARRIS. HE WAS COACHING THEM ON HOW TO ASSAULT ME.

7/26/09

12. STEVEN GRIMALDI' Steps to the Front of A-3-38 cell with A styrofoam tray and directs C-O ROBERT DAVIES III TO OPEN THE CELL DOOR.

A3-38 7/26/09

13. AS SOON AS THE CELL DOOR OPENED STEVEN GRIMALDI' Threw the TRAY AT ME AND BEGAN TO MALICIOUSLY AND SADISTICALLY ATTACK ME PUNCHING ME IN MY HEAD AND FACE WHILE SAYING "YOU DON'T FUCK WITH MY SGT, NEVER FUCK WITH MY SGT"

A-3-38 - 7/26/09

14 C-O MARK HARRIS ENTERS THE CELL AND WITNESSES C.O GRIMALDI' ATTACKING ME ASSAULTING ME USING OVER EXCESSIVE FORCE,
Y

A3-38 7/26/09

15. I ASKED C.O HARRIS TO HELP ME BUT HE IGNORED MY PLEA AND ASSISTED C-O GRIMALDI' IN THE ASSAULT.

A3-38 7/26/09

16. C.O MARK HARRIS PUNCHES ME IN MY HEAD AND FACE SEVERAL TIMES

A3-38 7/26/09

17. C.O MARK HARRIS GRABS HOT POT AND STRIKES ME IN THE BACK OF THE HEAD KNOCKING ME UNCONSCIOUS BUSTING MY HEAD OPEN.

A3-38 7/26/09

18. MARK HARRIS GRABS MY LEFT LEG AND TWISTS IT WHILE I AM FACE DOWN ON THE GROUND NOT RESISTING AND FRACTURES MY KNEE.

A3-38 7/26/09

19. While on the ground already in Mechanical RESTRAINTS C-O Robert DAVIES III USES BATON SEVERAL TIMES STRIKING ME IN THE BACK OF MY ARMS, HEAD, BACK AND LEGS

A3 38 7/26/09

20. I PLEADED WITH SGT ROACH WHO WAS PRESENT TO ORDER HIS OFFICERS TO STOP THE ILLEGAL USE OF OVER EXCESSIVE FORCE BUT HE DID NOTHING TO STOP THEM.

A-3-38 7/26/09

21. C.O MARK HARRIS, STEVEN GRIMALDI,
AND ROBERT DAVIES III Brutally assaulted
me while I WAS IN Full RESTRAINTS ON
The Ground IN FRONT OF SERGEANT ROACH.

A3-38/7/26/09

22. C.O FERNANDEZ ARRIVED ON THE SCENE
AND KICKED ME SEVERAL TIMES IN MY HEAD
AND FACE while MARK HARRIS SAT ON MY
BACK PUNCHING ME IN THE HEAD AND BOTH
SIDES OF MY FACE.

A3-38 7/26/09

23. C.O S. CORKNARD KICKED ME SEVERAL
TIMES IN MY HEAD AND FACE

A3 ENTRANCE 7/26/09

24. SERGEANT YUNG Punched AND KICKED
ME IN MY HEAD AND FACE which LEFT A
GASH ON The Right Side of my eye.

7/26/09

25. C.O S. CORKNARD AND FERNANDEZ
USED EXCESSIVE FORCE ESCORTING ME OFF
OF A-3 division by PUNCHING me IN THE FACE
SLAMMING MY HEAD AND FACE up AGAINST CELLS

THE WALL AND APPLYING THE HANDCUFFS
TIGHT WHICH CAUSED ME TO INCURE CARPEL
TUNNEL. 7/26/09

A 3-38 7/26/09

26. C.O DIXON WITNESSES THE ATTACK BUT
DID NOTHING TO STOP IT. HE HAD THE HAND
HELD CAMERA BUT CHOSE NOT TO TURN IT
ON UNTIL I WAS BROUGHT OFF THE DIVISION
IN THE HALLWAY WHERE THERE ARE CAMERAS
AND THEY COULDN'T ASSAULT ME ANY MORE.

A-3 38 7/26/09

27. DIXON HAD A REALISTIC OPPORTUNITY
TO PREVENT FURTHER ASSAULT BUT HE DID
NOT INTERVENE OR PERFORM HIS DUTY.

7/26/09 Hospital

28. AFTER WAITING AN HOUR IN THE CLINIC
BLEEDING PRELUSELY I AM FINALLY SEEN
BY RN K. GIORGIANNI.

29.) R.N Giorgianni Refused to treat me
Correctly And Applied butterfly STITCHES
to the Right Side of my eye which
Required Real STITCHES. 7/26/09 Clinic

30) The STIR STRIPS she applied didn't
Hold Gash Closed And eventually Came off
7/26/09 in clinic

31) I CONVEYED ^{in clinic 7/26/09} ALL my physical, mental
And Emotional injuries to Nurse Giorgianni
which were the following (a) Bruised eyes
Lumps And Bruises to head and face. Gash
(Deep) ON Right Side of face by eye brow
Cuts behind Left ear, Pain in ARMS, Elbow
Back And JAW. STIFF NECK PAIN in Mouth
FRACTURED Knee, mental Anguish, & FEAR OF
Sleeping because I was Knocked UNCONSCIOUS

7/26/09 in clinic/Hospital

32) Nurse Giorgianni Looked at my discolored
Swollen Knee and made AN unprofessional
Assessment Stating it WASN'T broken.

7/26/09

33) I WAS ESCORTED TO SHU CELL 28.

SHU 28 7/26/09

34) I WAS SEEN BY NURSE J. PLIENS.

SHU 28 7/26/09

35) I COMPLAINED OF PAIN IN MY KNEE, BACK ELBOW, MOUTH AND EYE WHICH HAD A DEEP GASH ON THE SIDE OF IT LEAKING ALL OVER MY SHIRT

SHU 28 7/26/09

36) I EXPLAINED TO HER THAT MY KNEE WAS BROKEN AND I WAS IN SEVERE PAIN ALSO I WAS LOSING A LOT OF BLOOD BECAUSE OF R.N. K. GIORGIANNI NOT APPLYING THE STITCHES PROPERLY.

SHU 28 7/26/09

37) SHE NURSE PLIENS BECAME IRATE AND SAID "PUT DOWN FOR SICK CALL IM NOT HERE FOR THAT" AND WALKED AWAY.

SHU 28 7/26/09

38) NURSE PLIENS LIED AND SAID I REFUSED TREATMENT AND WALKED AWAY.

SHU 28 7/26/09

39.) Because of NURSE PLIENS UNPROFESSIONAL CONDUCT I WAS LEFT IN THE CELL OVER NIGHT BLEEDING WITH A POSSIBLE FRACTURED KNEE.

7/26/09

40) Despite the SEVERITY OF MY INJURIES AND THE EXCRUCIATING PAIN I SUFFERED AS A RESULT OF MY INJURIES NO TREATMENT WAS GIVEN TO ME UNTIL TWO DAYS LATER.

7.

CAUSES OF ACTION

Note: You must clearly state each cause of action you assert in this lawsuit.

FIRST CAUSE OF ACTION

SECOND CAUSE OF ACTION

THIRD CAUSE OF ACTION

CAUSE OF ACTION

1.) on 7-26-09 At Cocksackie Correctional Facility Sergeant Jason T. YUNG Violated my EIGHTH AMENDMENT CONSTITUTIONAL RIGHT By PARTICIPATING AND ORDERING The USE OF EXCESSIVE Force, which caused INJURIES.

2) AT 11:41 ON 7-26-09 C-O Steven Grimaldi MALICIOUSLY AND SADISTICALLY Used EXCESSIVE Force on me by Punching me in my head AND FACE Causing INJURIES

3) C-O MARK Harris ON 11:41 7/26/09 used EXCESSIVE Force Punishing me CRUEL AND UNUSUALLY Punching me in head, Face and body Causing INJURIES.

ON 7/26/09

4) C-O MARK Harris Busted my head open With HOT POT Violating my 8th AMENDMENT CONSTITUTIONAL RIGHT TO BE FREE FROM CRUEL AND UNUSUAL PUNISHMENT AND EXCESSIVE FORCE,

Cause of Action

C-O 7/26/09

5) MARK HARRIS USED EXCESSIVE FORCE by Twisting my Left Leg while I AM FACE down ON the Ground NOT RESISTING AND FRACTURED my knee.

6) ON 7/26/09 IN A-3-38 cell while on the ground Already in Full Restraints C-O Robert DAVIES III MALICIOUSLY AND SADISTICALLY used over excessive Force by striking me IN the BACK of my Arms, head BACK AND Legs with BATON.

7) ON 7/26/09 SGT Roach who was AN EYE WITNESS TO my Assault refused to STOP the EIGHTH AMENDMENT U.S CONSTITUTIONAL VIOLATION From happening AND he had A Reasonable opportunity to do So.

8) ON 7/26/09 C-O MARK HARRIS, STEVEN Grimaldi, Robert DAVIES III BRUTALLY ASSAULTED me while Sgt Roach WATCHED AND did NOTHING to STOP The use of Excessive Force while I WAS down already in Full RESTRAINTS.

CAUSE OF ACTION

9) ON 7/26/09 C-O FERNANDEZ KICKED ME IN THE HEAD AND FACE WHILE I WAS SHACKLED AND HAND CUFFED HELD DOWN BY C-O MARK HARRIS WHO PUNCHED ME IN MY FACE SEVERAL TIMES USING EXCESSIVE FORCE.

10) ON 7/26/09 C-O S. CORKNARD KICKED ME SEVERAL TIMES IN MY HEAD AND FACE WHILE I WAS IN FULL RESTRAINTS USING OVER EXCESSIVE FORCE.

11) ON 7/26/09 SGT YUNG PUNCHED AND KICKED ME IN MY HEAD AND FACE WHICH LEFT A GASH ON THE RIGHT SIDE OF MY EYE WHICH REQUIRED STITCHES. SGT YUNG ORDERED & USED OVER EXCESSIVE FORCE

12) ON 7/26/09 C-O S. CORKNARD AND FERNANDEZ USED EXCESSIVE FORCE WHILE ESCORTING ME OFF A-3 DIVISION BY PUNCHING ME IN THE FACE SLAMMING MY HEAD AND FACE UP AGAINST CELL DOORS, AND WALLS AND APPLIED THE HANDCUFFS TOO TIGHT WHICH CAUSED ME TO INCURE CARPEL TUNNEL.

Cause of Action

13)

ON 7-26-09 C-O Dixon witnesses the Assault on me but didn't Perform his duty and Attempt to Stop it. C-O Dixon held the hand held Camera but didn't turn it on until his Fellow Officers Finished Assaulting ME using over Excessive Force.

ON 7-26-09
14) C.O. Dixon had A Realistic opportunity to Prevent Further Assault but he did not Intervene OR Perform his duty there Fore he Contributed to Violation of my EIGHT AMENOMENT Right to be Free From cruel AND USUALLY Punishment.

ON 7/26/09
15) R.N. Giorgianni Refused to Treat me Correctly And Applied butterfly stitches to the Gash on the Right Corner of Right eye which Fell off. I wasn't Provided Adequate medical Care

Cause of ACTION

16) ^{ON} 7/26/09 R.N. GIORGIANNI MADE AN UNPROFESSIONAL ASSESSMENT ABOUT MY FRACTURED KNEE STATING IT WASN'T BROKEN AND DIDN'T THINK I NEEDED X-RAYS. SHE WAS IN CAHOOTS WITH THE C-O'S AND SGT'S WHO ASSAULTED ME AND DENIED ADEQUATE MEDICAL CARE

^{while in SHU 28 CELL}
17) ON 7/26/09 R.N. J. PLIENS REFUSED TO GIVE ME ADEQUATE MEDICAL ATTENTION. I SHOWED HER THE OPEN GASH ON MY FACE, MY SWOLLEN DISCOLORED KNEE, AND MY WRISTS THAT HAD MARKS ON THEM FROM THE HAND CUFFS BEING APPLIED TIGHT.

8. Plaintiff(s) demand(s) a trial by

Jury -or- Court

(Circle only one).

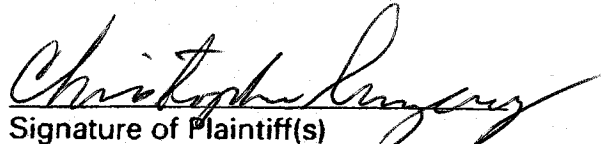
9. PRAYER FOR RELIEF

WHEREFORE, plaintiff(s) request(s) that this Court grant the following relief:

Punitive And Compensatory damages. Swing ^{each} def. in official
And Individual Capacity - Compensation For mental
Anguish suffered due to the deliberate indifference AND
INTENTIONAL MISCONDUCT EXCESSIVE FORCE but in no
event less then 2.5 million dollars. Seeking Compensation FOR
ALL physical injuries suffered

I declare under penalty of perjury that the foregoing is true and correct.

DATED: 8-10-10


Signature of Plaintiff(s)
(all Plaintiffs must sign)